

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

APPLETON PAPERS INC. and NCR CORP.,

Plaintiffs,

v.

Case No. 08-C-16

GEORGE A. WHITING PAPER CO., et al.,

Defendants.

ORDER

Defendant Kimberly-Clark Corporation (“K-C”) has moved to compel (Dkt. # 557) Plaintiff Appleton Papers, Inc. (“API”) to provide responses to its interrogatories and requests for production. Because API’s response to the motion suggested that it was, in fact, complying, I directed K-C to inform the Court whether the motion was still ripe for decision. K-C has now confirmed that it remains unsatisfied with API’s responses.

API has not provided responses on the grounds that it and K-C were not parties in the same action prior to this Court’s consolidation of the actions. API is a plaintiff in No. 08-C-16, and K-C is a defendant in No. 08-C-895, but neither party is a claimant against the other. The two actions were consolidated, API concedes, but because neither party has brought a claim against the other, it argues that it should not have to comply with K-C’s discovery requests.

Although K-C and API have not brought claims against each other, that does not mean they are not subject to discovery in the consolidated actions. The discovery rules speak of “parties” generally, not merely parties against whom one has filed a claim. And so it is not uncommon for

defendants to obtain discovery from other defendants, and so on. The two actions are consolidated, and so both K-C and API are “parties” entitled to take discovery. Accordingly, API’s objection on that basis is unfounded. And because K-C’s response to this Court’s directive indicates that API’s other objections (meet-and-confer and mootness) are similarly not sustainable, the motion to compel is **GRANTED**.

SO ORDERED this 19th day of October, 2009.

s/ William C. Griesbach
William C. Griesbach
United States District Judge